IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.387 OF 2005

Shivam Cargo Plaintiff

versus

M/s.Enayatali & Co. Defendant

Vikas Mahanagare for plaintiff.

None for defendant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 11th August 2005

PC :

1. The summary suit is filed on 27th January 2005. The original writ of summons issued by this Court on 21st February 2005 has been served through bailiff attached to the office of Sheriff of Greater Bombay on 27th May 2005. However, no steps have been taken by the defendant to appear in this Court within the time stipulated by law. Accordingly, plaintiff is entitled to apply for judgement in his favour.

2. Affidavit proving service of the writ of summons taken on record marked "X" for

identification. Original documents taken on record marked "X-1".

3. The claim in the summary suit arises out of written contract as evidenced by invoices raised for service rendered. The details of the invoices are mentioned in the plaint. After receipt of the same, no objection or dispute of any kind has been raised by the defendant. On the other hand, in part payment of the liability under the invoices in question, two cheques have been forwarded details of which are also set out in the plaint. When the said cheques were presented they were dishonoured by the defendant’s Bank for the reason "on account of insufficient funds". The intimation of this dishonour was given and further demand was raised for payment under invoices. It is in these circumstances that summary jurisdiction of this Court is invoked by the plaintiff.

4. With the assistance of learned advocate for plaintiff I have perused the plaint and original documents. I am satisfied that the claim in the suit is maintainable under Order XXXVII of CPC and since the cheques were deposited in 2003, the claim is within limitation.

5. In the circumstances, decree as prayed. Refund of court fees as well as computation of advocates costs as per rules. Certified copy of decree is expedited.

(S.C.DHARMADHIKARI, J.)